

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EDWARD S. TRZASKA,

Case No. 2:22-cv-00201-RFB-DJA

Plaintiff,

ORDER

v.

WARDEN NDOC, *et al.*,

Defendants.

Plaintiff Edward S. Trzaska brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at High Desert State Prison. (ECF No. 7.) On December 19, 2022, this Court ordered Trzaska to update his address within 30 days. (ECF No. 8.) That deadline expired without an updated address from Trzaska, and the Court's order came back as undeliverable. (*Id.* at 9.)

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party's failure to obey a court order or comply with local rules. See Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to

1 dismiss an action on one of these grounds, the Court must consider: (1) the public's
 2 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
 3 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 4 cases on their merits; and (5) the availability of less drastic alternatives. See In re
 5 Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
 6 Malone v. U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987)).

7 The first two factors, the public's interest in expeditiously resolving this litigation
 8 and the Court's interest in managing its docket, weigh in favor of dismissal of Trzaska's
 9 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
 10 because a presumption of injury arises from the occurrence of unreasonable delay in filing
 11 a pleading ordered by the court or prosecuting an action. See Anderson v. Air West, 542
 12 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
 13 cases on their merits—is greatly outweighed by the factors favoring dismissal.

14 The fifth factor requires the Court to consider whether less drastic alternatives can
 15 be used to correct the party's failure that brought about the Court's need to consider
 16 dismissal. See Yourish v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
 17 that considering less drastic alternatives before the party has disobeyed a court order
 18 does not satisfy this factor); accord Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th
 19 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
 20 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
 21 order as satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled
 22 with the warning of dismissal for failure to comply[,]” have been “eroded” by Yourish).
 23 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
 24 case, but must explore possible and meaningful alternatives.” Henderson v. Duncan, 779
 25 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed without
 26 the ability for the Court and the defendants to send Trzaska case-related documents,
 27 filings, and orders, the only alternative is to enter a second order setting another deadline.
 28 But without an updated address, the likelihood that the second order would even reach

1 Trzaska is low, so issuing a second order will only delay the inevitable and further
2 squander the Court's finite resources. Setting another deadline is not a meaningful
3 alternative given these circumstances. Thus, the fifth factor favors dismissal.

4 The Court has thoroughly considered these dismissal factors and finds that they
5 weigh in favor of dismissal.

6
7 **II. CONCLUSION**

8 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice
9 based on Trzaska's failure to file an updated address in compliance with the Court's
10 December 19, 2022, order. The Clerk of the Court is instructed to enter judgment
11 accordingly and close this case. The Clerk of the Court is instructed to send Plaintiff a
12 copy of this order.

13 **IT IS FURTHER ORDERED** that Plaintiff may move to reopen this case and vacate
14 the judgment by filing a motion for reconsideration of this order. In this motion, Plaintiff
15 would need to explain that circumstances which led to him not being able to respond to
16 comply with the Court's December 19, 2022, order. If the Court finds there is good cause
17 or a reasonable explanation for the failure to comply, the Court will reopen the case and
18 vacate the judgment.

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20 DATED THIS ^{19th} ____ day of April 2023.

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RICHARD F. BOULWARE, III
24 UNITED STATES DISTRICT JUDGE
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